

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

THOMAS M. MOROUGHAN,)	
)	12 CV 0512
Plaintiff,)	
)	<u>ORDER</u>
-against-)	
)	
THE COUNTY OF SUFFOLK, SUFFOLK COUNTY)	
POLICE DEPARTMENT, SUFFOLK DETECTIVES)	
TAVARES, CHARLES E. LESTER III,)	
DETECTIVE/SGT. WILLIAM J. LAMB, SUFFOLK)	
POLICE OFFICER MEANY AND SUFFOLK JOHN)	
DOES 1-10, THE COUNTY OF NASSAU, NASSAU)	
COUNTY POLICE DEPARTMENT, NASSAU)	
POLICE OFFICERS ANTHONY D. DILEONARDO,)	
EDWARD BIENZ AND JOHN DOES 11-20,)	
)	
Defendants.)	

A. KATHLEEN TOMLINSON, Magistrate Judge:

WHEREAS, defendant Anthony DiLeonardo was ordered to produce any test messages that are retrievable for the period of February 26, 2011 through November 30, 2012, and

WHEREAS, defendant Anthony DiLeonardo, requested copies of any retrievable text messaging records from Sprint/Nextel Communications, Inc. for wireless number for the time period of February 26, 2011 through November 30, 2012, and

WHEREAS, the records have not been produced to date, and

WHEREAS, defendant Anthony DiLeonardo, by his attorney Amy Marion, has now issued a subpoena duces tecum directed to Sprint/Nextel Communications, Inc., commanding production of any and all text messaging records for wireless number for the time period of February 26, 2011 through November 30, 2012, and

WHEREAS, the subpoena requires the production of the records on or before March 12, 2013, and

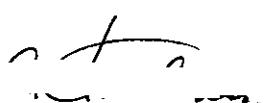
NOW, THEREFORE, IT IS HEREBY ORDERED, that Sprint/Nextel Communications, Inc., produce any and all retrievable text messaging records for wireless number for the time period of February 26, 2011 through November 30, 2012, and it is

FURTHER ORDERED, that if the records are not produced on or before March 12, 2013, that Sprint/Nextel Communications, Inc. shall submit sworn affidavit(s) to counsel for plaintiff and defendants, by person(s) with actual knowledge, setting forth the following matters:

- (1) A detailed account of the efforts made to locate the subject records, including the identities of all persons involved and their actual involvement;
- (2) A description of all records relating to the location of the subject records;
- (3) The identity of the person(s) who conducted the actual physical search for the subject records and the location(s) of that search.

SO ORDERED.

Dated: Central Islip, New York
March 1, 2013



A. KATHLEEN TOMLINSON
U.S. Magistrate Judge